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FILED

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CHARLES ELMORE CROPLEY
CLERK

IN THE
Supreme Court of the United States

OCTOBER TERM, A. D. 1940.

Nos. **281-282**

IN THE MATTER OF

GRANADA APARTMENTS, INC.,

DEBTOR.

WEIGHTSTILL WOODS, COURT TRUSTEE,

Petitioner,

vs.

CITY NATIONAL BANK AND TRUST COMPANY OF
CHICAGO, AND OTHERS,

Respondents.

MOTION BY COURT TRUSTEE TO STRIKE RESPONDENTS'
PETITION FOR REHEARING.

WEIGHTSTILL WOODS,

Attorney for Petitioner,

77 West Washington St.,

Chicago, Illinois.

JAMES GLENN McCONAUGHY,

On the Brief.

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WEIGHTSTILL WOODS, COURT TRUSTEE,
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281

vs.

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CAGO, AND OTHERS.

WEIGHTSTILL WOODS, COURT TRUSTEE,
Petitioner,

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vs.

CITY NATIONAL BANK AND TRUST CO. OF CHI-
CAGO, AND OTHERS.

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE SEVENTH CIRCUIT.

MOTION BY COURT TRUSTEE.

Your Court Trustee, makes motion to strike the petition
for rehearing sought to be filed by the respondents; and
urges the following suggestions:

Respectfully submitted,

WEIGHTSTILL WOODS,
Court Trustee.

SUGGESTIONS IN SUPPORT OF MOTION.

The petition by respondents for rehearing is a complete departure from both the printed brief and the oral admissions made by the respondents in the Supreme Court. The appendices suggested for respondents are mere new assertion. They are ~~not mentioned~~ anywhere in the record. The petition and appendices are no more than an offer of original evidence in this court. Respondents seek now to begin, before this court, a new trial upon original issues. These afterthoughts by respondents are not supported by any pleading nor by any assignment of error anywhere. At pages 16-17, respondents' petition so admits when it states:

"We submit that while the general principles laid down by the court in its opinion in reference to conflicts of interest are *sound*, and that while *the court may have had some basis on the record alone* for concluding that some of those principles were applicable in the instant case, nevertheless *in view of the facts as disclosed in the petition and the appendices hereto* those principles are not applicable." (Italics supplied.)

Thus respondents even now say **that** the opinion as rendered by Your Honors, on the basis of the record facts, is correct. This admission, plus Rule 52 of Civil Procedure closes completely all factual questions in the case.

In their attempt to minimize the facts of that record, some supposed papers (the validity of which is unknown to the Court Trustee), are now mentioned for the first time, disguised as a "Petition for Rehearing." These supposed papers, although presumably in respondents' possession for some eight years, were never presented or shown to the trial court, nor disclosed to the Court Trustee by any of the respondents. Almost four years ago the

Court Trustee made written demand upon all respondents for all relevant documents. (P. R. 503, 186, 187.) Not being part of the record of this cause, even if the matter mentioned by Petition for Rehearing was relevant, such matter is forbidden at this late date, after the case has been fully heard and disposed of by the District Court, the Circuit Court of Appeals and the Supreme Court of the United States.

Respectfully submitted,

WEIGHTSTILL WOODS,

Counsel for Court Trustee.